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Attorneys for Defendants  
City of Modesto and Modesto Police Department

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ADRIAN LEYVA, a minor, AIDAN  
LEYVA, a minor, ALEXANDER  
LEYVA, a minor, ALEXIS LEYVA, a  
minor, by and through their guardian ad  
Litem, DULCE MARIA BELMONTE,

Plaintiffs,

v.

CITY OF MODESTO; MODESTO  
POLICE DEPARTMENT; INVOLVED  
MODESTO POLICE OFFICERS;  
COUNTY OF STANISLAUS;  
STANISLAUS COUNTY SHERIFF'S  
OFFICE; and INVOLVED SHERIFF'S  
DEPUTIES; and DOES 1 to 100,

Defendants.

Case No. 1:20-CV-01369-NONE-JDP

**STIPULATION AND ORDER TO DISMISS  
PLAINTIFFS' 42 U.S.C. § 1983 CLAIM**

Trial: None Set

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**STIPULATION**

WHEREAS on July 6, 2020, Plaintiffs filed their Complaint for (1) Negligence and (2) Deprivation of a Federal Right under 42 U.S.C. § 1983 in this action against Defendants City of Modesto, Modesto Police Department, County of Stanislaus, and Stanislaus County Sheriff's Department;

WHEREAS on September 28, 2020, Defendants City of Modesto and Modesto Police Department removed this action to this Court under 28 U.S.C. § 1441(a);

WHEREAS Plaintiffs seek to dismiss their second cause of action for deprivation of a federal right under 42 U.S.C. § 1983;

WHEREAS all parties who have appeared are entering into this stipulation;

IT IS HEREBY STIPULATED, by and between Plaintiffs and Defendants City of Modesto, Modesto Police Department, County of Stanislaus, and Stanislaus County Sheriff's Department, by and through their respective counsel, that:

1. Plaintiffs' second cause of action for deprivation of a federal right under 42 U.S.C. § 1983 is hereby dismissed with prejudice.

2. Because removal jurisdiction was predicated on plaintiffs' sole federal claim law, the sole federal claim has been dismissed, and plaintiffs' sole remaining claim is for common law negligence under state law, the parties agree that this case is appropriate for remand back to state court.

Dated: January 13, 2021

RIVERA HEWITT PAUL, LLP

By: /s/Shanan L. Hewitt

Shanan L. Hewitt

Wendy Motooka

*Attorneys for Defendants, County of Stanislaus,  
Stanislaus County Sheriff's Department*

1 Dated: January 13, 2021

ALLEN, GLAESSNER,  
HAZELWOOD & WERTH, LLP

2  
3 By: /s/ Patrick Moriarty  
PATRICK MORIARTY  
JOHN B. ROBINSON  
4 Attorneys for  
5 Defendant CITY OF MODESTO, MODESTO  
POLICE DEPARTMENT

6 Dated: January 13, 2021

CAPUTO & VAN DER WALDE, LLP

7  
8 By: /s/ Paul F. Caputo  
Paul F. Caputo

9 Dated: January 13, 2021

LEANOS LAW FIRM

10 By: /s/ Jamie A. Leanos  
11 Jamie A. Leanos  
12 Attorneys for Plaintiff

13 **ORDER**

14 The court, having reviewed the stipulation of all parties dismissing plaintiffs' sole federal  
15 claim, orders that plaintiffs' second cause of action for deprivation of a federal right under 42  
16 U.S.C. § 1983 is hereby dismissed with prejudice.

17 The court now lacks subject matter jurisdiction over this action. Under 28 U.S.C.  
18 § 1367(c)(3), the court hereby declines to exercise supplemental jurisdiction over plaintiffs'  
19 remaining state law negligence claim and remands the action to state court.

20  
21 IT IS SO ORDERED.

22 Dated: January 13, 2021

23 Dale A. Inghel  
UNITED STATES DISTRICT JUDGE